



Kansas Administrative Regulations
Kansas Department of Health and Environment

Notice to Reader

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Where possible KDHE will append changed regulations to the appropriate article. Once again, the lack of any attachments should not be construed as meaning there are no revisions.

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Office of Public Information
Kansas Department of Health & Environment

Notes

The *Kansas Register* notes the following changes:

paragraph (d) of this regulation. The metropolitan planning organization and the U.S. department of transportation shall confirm that the transportation plan and transportation improvement program still satisfy the requirements of 40 CFR §93.118 and 40 CFR §93.119 and that the conformity determinations for the transportation plan, transportation improvement program, and project are still valid without implementation of the mitigation or control measures.

(C) The reference to 40 CFR §93.133(a) in 40 CFR §93.115, which is adopted by reference pursuant to subparagraph (b)(1) of this regulation, shall be deemed to refer to this subparagraph (b)(6).

(7) Any reference to federal regulations in 23 CFR part 450 in any of the sections of 40 CFR part 93 adopted by reference pursuant to this regulation, is to 23 CFR part 450 as in effect on the date of adoption of this regulation.

(8) Any reference to 40 CFR §93.105, consultation, in any of the sections of 40 CFR part 93 adopted by reference, shall be deemed to refer to paragraph (d) of this regulation.

(c) Definitions.

(1) 40 CFR §93.101, definitions, as promulgated on November 24, 1993, is adopted by reference.

(2) For the purposes of this rule the term "Kansas consulting agencies" shall mean:

(A) the Kansas department of health and environment;

(B) the Kansas department of transportation;

(C) the Wyandotte county health department; and

(D) the Johnson county environmental department.

(d) Interagency consultation requirements.

(1) Consultation pursuant to this section shall take place during all periods identified in 40 CFR §93.109, which is adopted by reference pursuant to paragraph (b) of this regulation.

(2) The Kansas consulting agencies shall participate in a consultation process with representatives of:

(A) the Missouri department of natural resources, division of environmental quality, and Missouri local air agencies that elect to participate in the consultation process;

(B) the Missouri department of transportation and Missouri local transportation agencies;

(C) the federal highway administration of the U.S. department of transportation, the federal

transit administration of the U.S. department of transportation, and the U.S. environmental protection agency; and

(D) the Mid-America regional council, in its capacity as the lead planning agency for the Kansas City air quality region certified by the state of Kansas under section 174 of the federal clean air act, 42 U.S.C. §7504, and in its capacity as the metropolitan planning organization for the Kansas City metropolitan area, designated by the governor of the state of Kansas as responsible for transportation planning under section 134 of Title 23 U.S.C.

(3) Consultation shall be required for:

(A) any conformity determination pertaining to transportation plan, programs, and projects required pursuant to section 176(c)(4) of the federal clean air act, 42 U.S.C. §7506(c)(4), and 40 CFR part 93, subpart A, as promulgated on November 24, 1993; and

(B) all matters listed at 40 CFR §93.105(c), as promulgated on November 24, 1993, which is hereby adopted by reference, with the following modifications:

(i) subparagraph (1)(v) of 40 CFR §93.105(c) is deleted; and

(ii) the reference in subparagraph (5) of 40 CFR §93.105(c) to 40 CFR §93.130 shall be deemed to refer to subparagraph (b)(4) of this regulation. (Authorized by and implementing K.S.A. 1995 Supp. 65-3005; effective March 15, 1996.)

**Article 20.—HUMAN BODIES;
PREPARATION AND TRANSPORTATION
OF DEAD HUMAN BODIES AND BURIAL
IN MAUSOLEUM**

28-20-1. (Authorized by K.S.A. 65-102, 65-1638, 65-1639; effective Jan. 1, 1966; amended Jan. 1, 1969; revoked May 1, 1981.)

28-20-2. (Authorized by K.S.A. 65-102, K.S.A. 1968 Supp. 65-128; effective Jan. 1, 1966; revoked Jan. 1, 1969.)

28-20-2a. (Authorized by K.S.A. 65-102, 65-128; effective Jan. 1, 1969; revoked May 1, 1981.)

28-20-3. (Authorized by K.S.A. 65-102; effective Jan. 1, 1966; revoked Jan. 1, 1969.)

28-20-3a. (Authorized by K.S.A. 65-101, 65-102, 65-128, 65-2426; effective Jan. 1, 1969;

amended Jan. 1, 1972; amended May 1, 1976; revoked May 1, 1981.)

28-20-4. (Authorized by K.S.A. 65-101, 65-102, 65-128; effective Jan. 1, 1966; amended Jan. 1, 1969; amended May 1, 1976; revoked May 1, 1981.)

28-20-5. (Authorized by K.S.A. 65-102, 65-128; effective Jan. 1, 1966; amended Jan. 1, 1969; revoked May 1, 1981.)

28-20-6. (Authorized by K.S.A. 65-102; effective Jan. 1, 1966; revoked May 1, 1981.)

28-20-7. (Authorized by K.S.A. 65-102, 65-128; effective Jan. 1, 1966; amended Jan. 1, 1969; revoked May 1, 1981.)

28-20-8. (Authorized by K.S.A. 65-102; effective Jan. 1, 1966; revoked May 1, 1981.)

Article 21.—FOOD, DRUGS AND COSMETICS

A. GENERAL REGULATIONS

28-21-1. **Labeling; definition.** Labeling includes all written, printed, or graphic matter accompanying an article at any time while such article is for sale, delivery, held for sale, or offered for sale in the state of Kansas. (Authorized by K.S.A. 1965 Supp. 65-673; effective Jan. 1, 1966.)

28-21-2. **Difference of opinion among experts.** The existence of a difference of opinion, among experts qualified by scientific training and experience, as to the truth of a representation made or suggested in the labeling is a fact (among other facts) the failure to reveal which may render the labeling misleading, if there is a material weight of opinion contrary to such representation. (Authorized by K.S.A. 1965 Supp. 65-673; effective Jan. 1, 1966.)

28-21-3. (Authorized by K.S.A. 1965 Supp. 65-673; effective Jan. 1, 1966; revoked May 10, 1996.)

28-21-4. **Guaranty; definition, and suggested forms.** (a) A guaranty or undertaking referred to in K.S.A. 65-659 (b) may be:

(1) Limited to a specific shipment or other delivery of an article, in which case it may be a part of or attached to the invoice or bill of sale covering such shipment or delivery, or

(2) General and continuing, in which case, in its application to any shipment or other delivery

of an article, it shall be considered to have been given at the date such article was shipped or delivered by the person who gives the guaranty or undertaking.

(b) The following are suggested forms of guaranty or undertaking under K.S.A. 65-659 (b):

(1) Limited form for use on invoice or bill of sale:

(Name of person giving the guaranty or undertaking) hereby guarantees that no article listed herein is adulterated or misbranded within the meaning of the Kansas food, drug and cosmetic act.

(Signature and post-office address of person giving the guaranty or undertaking.)

(2) General and continuing form:

The article comprising each shipment or other delivery hereafter made by (name of person giving the guaranty or undertaking) to, or on the order of (name and post-office address of person to whom the guaranty or undertaking is given) is hereby guaranteed, as of the date of such shipment or delivery, to be, on such date, not adulterated or misbranded within the meaning of the Kansas food, drug and cosmetic act.

(Signature and post-office address of person giving the guaranty or undertaking.)

(c) The application of a guaranty or undertaking referred to in K.S.A. 65-659 (b) to any shipment or other delivery of an article shall expire when such article, after shipment or delivery by the person who gave such guaranty or undertaking, becomes adulterated or misbranded within the meaning of the act.

(d) A guaranty or undertaking, if signed by two or more persons, shall state that such persons severally guarantee the article to which it applies.

(e) No representation or suggestion that an article is guaranteed under the act shall be made in labeling. (Authorized by K.S.A. 1965 Supp. 65-673; effective Jan. 1, 1966.)

28-21-5. **Food; labeling; misbranding.**

(a) Among representations in a labeling of a food which render such food misbranded is a false or misleading representation with respect to another food or a drug, device, or cosmetic.

(b) The labeling of a food which contains two or more ingredients may be misleading by reason (among other reasons) of the designation of such food in such labeling by a name which includes or suggests the name of one or more but not all such ingredients, even though the names of all such ingredients are stated elsewhere in the labeling. (Authorized by K.S.A. 1965 Supp. 65-673; effective Jan. 1, 1966.)